IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.1239 OF 2005.

WITH

CIVIL APPLICATION NO.1187 OF 2005.

Kulbhushan Dhanpal Awati & Anr. : Appellants.

versus

Smt.Shobhatai Arun Kanse & ors. : Respondents.

Mr.S.S.Rajeshirke for the appellants.

Mr.Pratap Patil for the respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 11th July 2005.

ORAL ORDER

1. Heard advocates for the appellants and respondents. Looking to the issue involved, the appeal is admitted and heard finally.

2. Counsel for the appellants contended that the appeal is filed against an exparte order

passed by the Motor Accident Claims Tribunal, Islampur. The claim petition was originally filed in Sangli Court. It was transferred to Islampur and there was some bonafide mistake of understanding on the part of the appellants, therefore, they could not remain present in Islampur Court. The counsel for the appellants has shown his willingness to assist the court in expediting the matter. He also states that the appellants have already deposited Rs.50,000/- before the tribunal and Rs.25,000/- in this court. Therefore, in the circumstances I pass the following order :-

:ORDER:

The impugned order is set aside.

The matter is remanded to the Motor Accident Claims Tribunal, Islampur.

The amount of Rs.25,000/- deposited in this Court shall be transferred to the M.A.C.T. Islampur. Respondents are permitted to withdraw Rs.50,000/- out of the total amount deposited.

Parties to appear before the MACT Islampur on 1st August 2005. The appellants will file their written statement within two weeks thereafter positively without fail.

The MACT, Islampur will decide the matter afresh within three months of the date of appearance.

Both the appeal and civil application are disposed of accordingly.

Certified copy expedited.

[D.G.DESHPANDE]